



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Atty. Docket: WALLACH=16A

In re Application of:) Conf. No.: 2547
)
David WALLACH et al) Art Unit: 1642
)
Appln. No.: 09/824,134) Examiner: M. Davis
)
Filed: April 3, 2001) Washington, D.C.
)
For: MODULATORS OF THE) March 7, 2005
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RESPONSE

Honorable Commissioner for Patents
U.S. Patent and Trademark Office
Customer Service Window
Randolph Building, Mail Stop
401 Dulany Street
Alexandria, VA 22314

Sir:

The present communication is responsive to the official action of February 25, 2005. Claims 1-7, 11 and 14 presently appear in this case. No claims have been allowed. The official action of February 25, 2005, has now been carefully studied. Reconsideration and allowance are hereby respectfully urged.

It is noted that the finality of the previous Office action has been withdrawn, and all of the previous rejections have been withdrawn. Prosecution has been reopened to make the following new rejection.

Claims 1-7 have been provisionally rejected under the judicially created doctrine of obviousness-type double

Appln. No. 09/824,134
Response dated March 7, 2005
Reply to official action of February 25, 2005

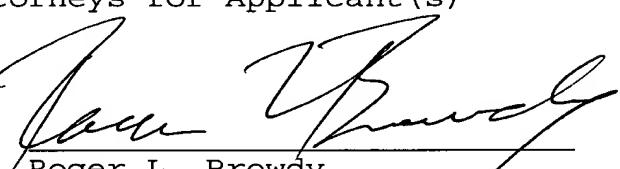
patenting as unpatentable over claims 29-31, 39 and 42-46 of copending application no. 08/860,082. The examiner states that a timely filed terminal disclaimer in compliance with 37 C.F.R. §1.321(b) and (c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground, provided that the conflicting application or patent is shown to be commonly owned with this application.

Attached hereto is a terminal disclaimer in full compliance with the applicable rules. In view of this terminal disclaimer, the provisional obviousness-type double patenting rejection has now been obviated. Reconsideration and withdrawal thereof is respectfully urged.

It is submitted that all of the claims now present in the case clearly define over the references of record. Reconsideration and allowance are therefore earnestly solicited.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant(s)

By 
Roger L. Browdy
Registration No. 25,618

RLB:jab
Telephone No.: (202) 628-5197
Facsimile No.: (202) 737-3528
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